

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:23-cv-00734-WO-JEP

ANITA S. EARLS,

Plaintiff,

v.

NORTH CAROLINA JUDICIAL
STANDARDS COMMISSION *et al.*,

Defendants.

EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL

Plaintiff Anita S. Earls, by her undersigned counsel and pursuant to Federal Rule of Civil Procedure 62(d) and Federal Rule of Appellate Procedure 8(a)(1)(C), hereby moves on an emergency basis for an injunction pending appeal prohibiting Defendants from further investigation or any hearing concerning, or punishment of, her for statements on matters of public concern on the ground that Defendants' activities violate the First Amendment to the U.S. Constitution by regulating core protected political speech in a manner not tailored to achieve a compelling state interest.

In seeking an injunction pending appeal, Plaintiffs do not ask the Court to find that its own decision was incorrect. A district court "may grant a stay even though its own approach may be contrary to movant's view of the merits." *Goldstein v. Miller*, 488 F. Supp. 156, 172 (D. Md. 1980) (quoting *Wash. Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977)). Rather, as explained more fully in

Plaintiffs' supporting memorandum, an injunction is appropriate because this case at least presents a substantial question on the merits, Plaintiff will suffer irreparable harm absent an injunction, the balance of harms tips in Plaintiff's favor, and the public interest favors an injunction.

Plaintiff in any event respectfully seeks prompt action on the motion so that she can seek any further appropriate relief from the Fourth Circuit. A supporting memorandum and proposed orders – one granting the motion and one denying it – are being filed with this motion.

This the 27th day of November, 2023.

By: /s/ Pressly M. Millen
Pressly M. Millen
State Bar No. 16178
Raymond M. Bennett
State Bar No. 36341
Samuel B. Hartzell
State Bar No. 49256

OF COUNSEL:

WOMBLE BOND DICKINSON (US) LLP
555 Fayetteville Street, Suite 1100
Raleigh, North Carolina 27601
(919) 755-2100

Attorneys for Plaintiff
Anita S. Earls